

# Public Notice

U S Army Corps  
of Engineers  
Huntington District

In reply refer to Public Notice No. 2006-2033KAN

Issuance Date: March 5, 2008

Stream: Coal Fork

Closing Date: April 4, 2008

Please address all comments and inquiries to:

U S Army USACE of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. *(reference above)*

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

**PUBLIC NOTICE:** The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**REGULATORY PROGRAM:** Since its early history, the US Army Corps of Engineers (USACE) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the USACE Regulatory Program.

**SECTION 10:** The USACE is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

**SECTION 404:** The USACE is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the USACE request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

**APPLICANT:** Wildeat, LLC  
500 Lee Street, Suite 900  
Charleston, West Virginia 25301

**LOCATION:** The proposed project would be constructed approximately 2.7 miles northwest of Eskdale, in the Cabin Creek District of Kanawha County, West Virginia. The project area can be found at latitude 38°06'18" and longitude 81°29'33" on the Sylvester and Eskdale USGS 7.5-minute quadrangles. The proposed project would result in disturbances to unnamed tributaries of and Coal Fork and unnamed tributaries of and Left Fork Longbottom Creek of Longbottom Creek. Coal Fork and Longbottom Creek are tributaries of Cabin Creek of the Kanawha River, a navigable Section 10 waterway of the United States.

**DESCRIPTION OF THE PROPOSED WORK:** The applicant proposes to discharge dredged and or fill material into approximately three acres of waters of the United States in conjunction with the construction, operation and reclamation of the Wildcat No. 2 Surface Mine [Surface Mining Control and Reclamation Act (SMCRA) Permit S-3016-06 and National Pollutant Discharge Elimination Permit WV1022156]. The applicant proposes to mine the 6-Block, 5-Block, Lower 5-Block, Clarion, Stockton, Coalburg and Winifrede coal seam beds including coal rider seams and splits by the mountaintop, contour and highwall auger mining methods. Project components would include a two permanent valley fills (Valley Fill No. 2A and 2B), two temporary Erosion Protection Zones (EPZs), 11 mine-through areas, and two permanent channel relocations. Construction of the EPZs would result in temporary, direct discharges of dredged or fill material into 503 linear feet (0.107 acre) of waters of the United States. To facilitate the construction of sediment control, approximately 2,787 linear feet of streams channels (CFUT1 and LCUT1) be permanently relocated and 653 cubic yards of earthen material would be used to fill the existing channels. The relocated channel associated with CFUT1 would total 2,425 linear feet. The relocated channel of LCUT1 would be total 850 linear feet. Construction of the proposed underdrain systems associated with Valley Fill No. 1 and 2 would result in the permanent, direct discharges of dredged material into 17,113 linear feet (2,248 acre) of stream channels and 0.28 acre of emergent wetland. Mineral removal activities would result in the temporary, direct impacts to 4,885 linear feet (0.263 acre) of waters of the United States. Also, access haul roads would be constructed and would result in the temporary, direct discharge of fill material into 995 linear feet (0.101 acre) of waters of the United States to provide access to the project area. Details regarding these proposed activities are listed in the Table A of this public notice. The purpose of the proposed project is to construct attendant and associated features (i.e. access haul roads, overburden disposal, etc.) and to facilitate efficient extraction of 10,678,641 tons of coal reserves in the SMRCA permitted area (1,008.30 acres) for a period of 10 years. Coal removed from the project area would be processed and moved offsite for delivery to customers. Plans for the proposed facility are attached to this public notice.

**ALTERNATIVE ANALYSIS:** This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the overall project purpose. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the overall project purpose.

**MITIGATION PLAN:** The applicant has not submitted a Compensatory Mitigation Plan to compensate for temporary and permanent impacts to waters of the United States that are regulated by the USACE.

**WATER QUALITY CERTIFICATION:** A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the WVDEP.

**HISTORIC AND CULTURAL RESOURCES:** A report entitled "Phase I Archaeological Survey of the Proposed Wildcat No. 2 Surface Mine, Cabin Creek District, Kanawha County, West Virginia" was previously completed for the proposed project. This report indicates that no cultural resources located within the project area are eligible for inclusion in the National Register of Historic Places. An additional Phase I archaeological survey was completed for the project area. Based on a review of the Phase I survey, systematic examination of the project area was conducted and while lithic debitage was found at several spots, no evidence was observed suggesting the presence of stratified deposits, midden or additional subsurface cultural features. It has been determined there are no properties included in or eligible for listing in the National Register of Historic Places that would be affected by the proposed undertaking. A copy of this public notice will be sent to the SHPO for their review. Additional comments concerning archeological sensitivity of a project area should be based upon collected data.

**ENDANGERED/THREATENED SPECIES REVIEW:** Two federally listed endangered species, the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may occur within the project area. The applicant retained the services of Compliance Monitoring Labs, Inc. to complete a bat-mist net survey to determine presence or probable absence of the Indiana bat within the proposed project area. Ten net-site locations were selected and surveyed during forty net nights on May 16, 2007 and May 19, 2007 through May 21, 2007. No Indiana bats were captured during this survey. The bat-mist net survey also indicates the proposed project area was surveyed for abandoned mine portals could support summer or winter colonies of the endangered Virginia big-eared bat or provide hibernaculum for the Indiana bat. As a result, no old, abandoned mine portals were found within the proposed project area. Based on the fact no Indiana bats were captured during the mist net survey and no old, abandoned mine portals are located within proposed project area, the WVDEP, in a letter dated June 5, 2007, has determined the proposed project is not likely to adversely affect endangered or threatened species or their critical habitat. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the ESA Species Act of 1972 (as amended).

**PUBLIC INTEREST REVIEW AND COMMENT:** Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest, which may be adversely affected, and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the USACE, and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the United States Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

**SOLICITATION OF COMMENTS:** The USACE is soliciting comments from the public: Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the USACE to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mrs. Teresa Spagna, Project Manager, South Regulatory Section, CELRH-OR-FS, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning the above, please contact Mrs. Teresa Spagna of the South Regulatory Section at (304) 399-5710.



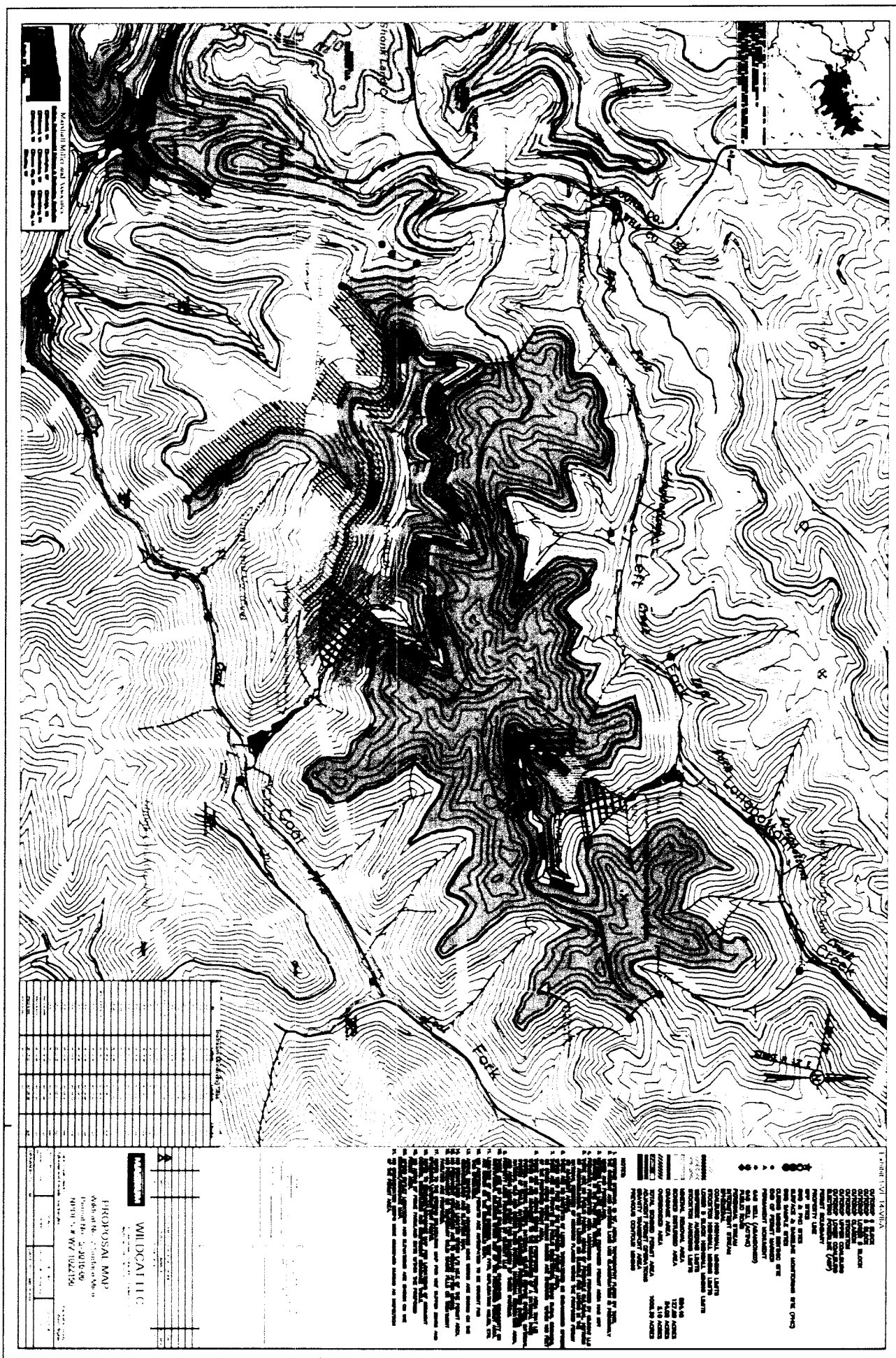
Ginger Mullins, Chief  
Regulatory Branch

(W)

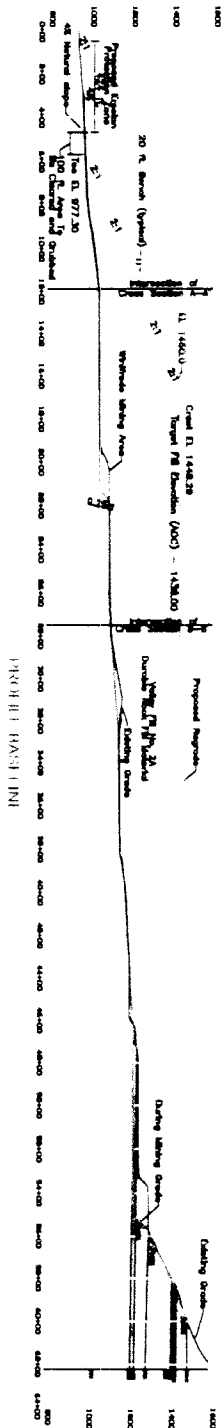
Table A. Jurisdictional Waters of the United States Impact Category										
Jurisdictional Waters of the United States to be Impacted	Stream Type	Proposed Activities and Impacts to Waters of the United States								
		Permanent Fill Impacts		EPZ Impacts		Mined Through Impacts		Access/Haul Road Impacts		Wetland Impacts
		Linear Feet	Acres	Linear Feet	Acres	Linear Feet	Acres	Linear Feet	Acres	Acres
CFUT1 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.280
	Intermittent	12,834	1.782	318	0.082	1,576	0.106	0	0.000	
	Ephemeral	0	0.000	0	0.000	0	0.000	0	0.000	
LCUT1 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	3,231	0.882	185	0.025	254	0.011	0	0.000	
	Ephemeral	1,048	0.064	0	0.000	165	0.005	0	0.000	
CFUT2 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	0	0.000	0	0.000	135	0.003	0	0.000	
	Ephemeral	0	0.000	0	0.000	0	0.000	0	0.000	
CFUT4 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	0	0.000	0	0.000	0	0.000	0	0.000	
	Ephemeral	0	0.000	0	0.000	685	0.031	0	0.000	
LC Mainstream	Perennial	0	0.000	0	0.000	0	0.000	564	0.081	0.000
	Intermittent	0	0.000	0	0.000	0	0.000	106	0.010	
	Ephemeral	0	0.000	0	0.000	0	0.000	110	0.002	
LCUT2 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	0	0.000	0	0.000	188	0.004	46	0.002	
	Ephemeral	0	0.000	0	0.000	345	0.018	0	0.000	
LCUT3 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	0	0.000	0	0.000	265	0.027	0	0.000	
	Ephemeral	0	0.000	0	0.000	0	0.000	0	0.000	
LCUT4 and branches	Perennial	0	0.000	0	0.000	0	0.000	0	0.000	0.000
	Intermittent	0	0.000	0	0.000	764	0.032	0	0.000	
	Ephemeral	0	0.000	0	0.000	0	0.000	0	0.000	

LCUT5	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	0	0,000	0	0,000	
	Ephemeral	0	0,000	0	0,000	308	0,016	0	0,000	
LCUT6 and branches	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	200	0,016	0	0,000	
	Ephemeral	0	0,000	0	0,000	0	0,000	0	0,000	
LCUT7	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	0	0,000	0	0,000	
	Ephemeral	0	0,000	0	0,000	0	0,000	42	0,001	
LCUT9	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	0	0,000	11	0,001	
	Ephemeral	0	0,000	0	0,000	0	0,000	0	0,000	
LCUT10	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	0	0,000	0	0,000	
	Ephemeral	0	0,000	0	0,000	0	0,000	66	0,001	
LCUT11	Perennial	0	0,000	0	0,000	0	0,000	0	0,000	0,000
	Intermittent	0	0,000	0	0,000	0	0,000	50	0,003	
	Ephemeral	0	0,000	0	0,000	0	0,000	0	0,000	
TOTAL		17.113	2.248	503	0.107	4.885	0.263	995	0.101	0.280









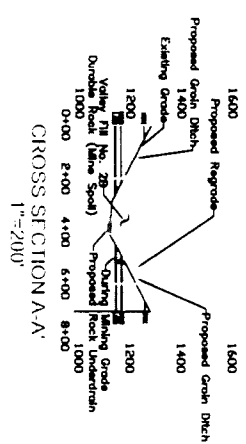
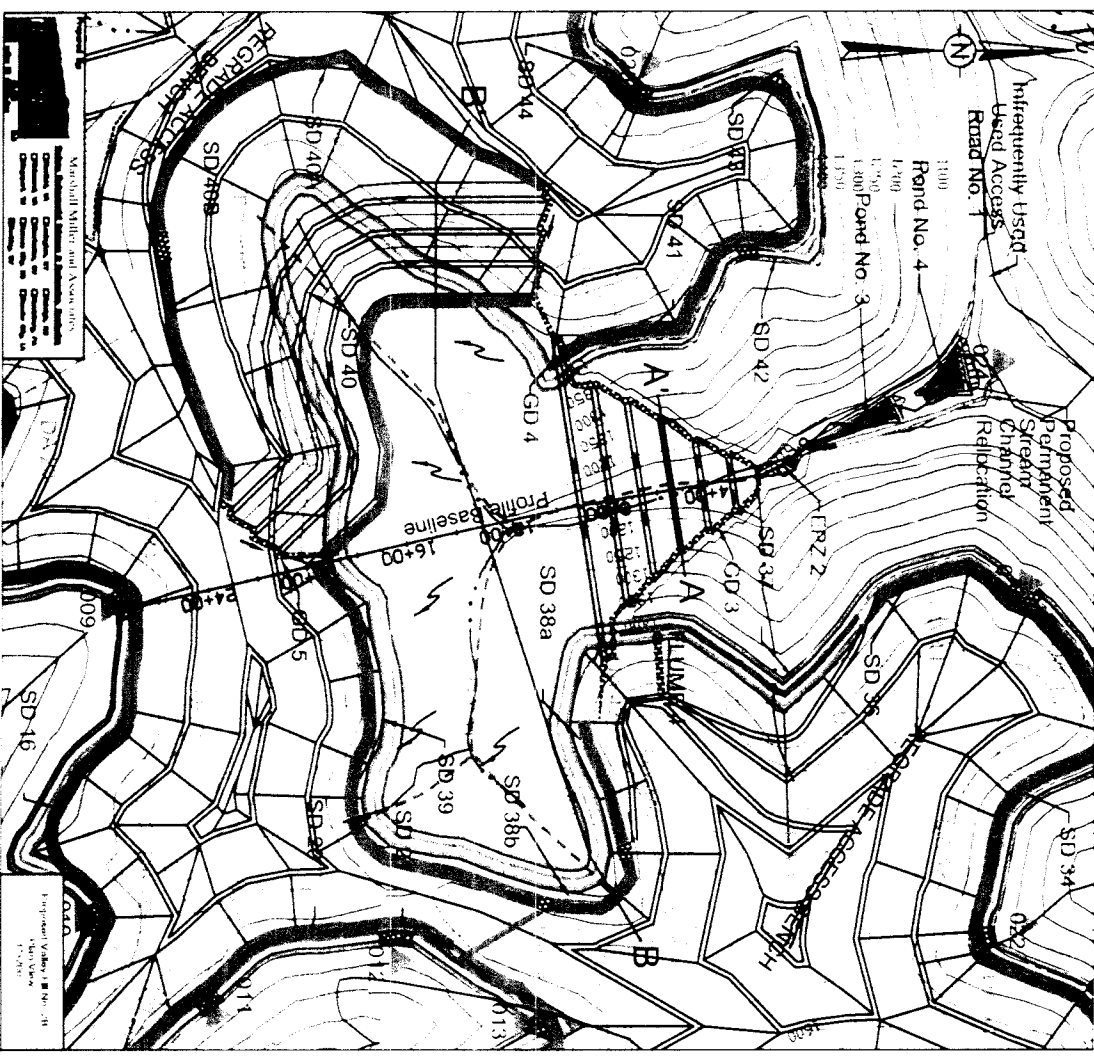
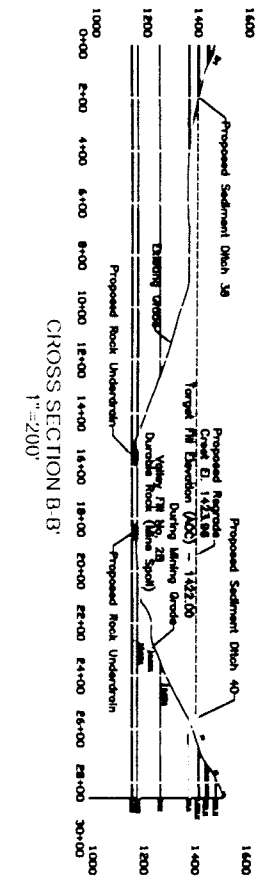
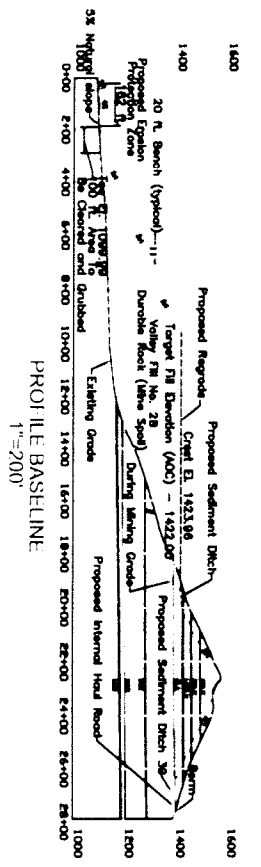
CROSS SECTION A-A'

CROSS SECTION B-B'

### Typical Resonance Configuration

[illegible]

1. REFER TO SECTION P FOR DAMAGE/STRUCTURE DETAIL  
2. REFER TO SECTION R FOR STABILITY ANALYSIS OF PILLS  
3. REFER TO SECTION R FOR EXCESS SPILL VOLUMES  
4. REFER TO SECTION R FOR EXCESS SLOPE ONLY.  
5. CHECK ALL CONTROLS BY POINTS 1 & 2



CROSS SECTION B-B'

CROSS SECTION A-A'

Proposed Regrade for Mining and/or

1. REFER TO SECTION P FOR DRAINAGE STRUCTURE DETAILS  
2. REFER TO SECTION R FOR STABILITY ANALYSIS OF FILLS  
3. REFER TO SECTION R FOR EXCESS SPILL VOLUMES

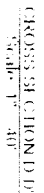
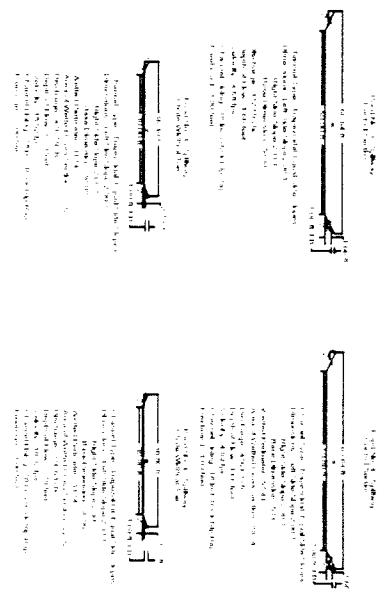
- 5 SURFACE WATER SHEET FLOW DIRECTION
- 4 DRAINAGE CONTROL STRUCTURE
- 3 BLOCK COAL SEAM OUTCROP
- 2 BLOCK COAL SEAM OUTCROP
- 1 BLOCK COAL SEAM OUTCROP
- 0 BLOCK COAL SEAM OUTCROP
- ROCK CORE UNDERLAIN
- PROPOSED REGRADE & PROJECTED FILL
- ORIGINAL GRADE
- DRAINAGE Lining GRADE
- PROPOSED REGRADE & PROJECTED FILL

WILDCAT LLC

VALLEY FILL NO. 2B DI TAIL SHEET

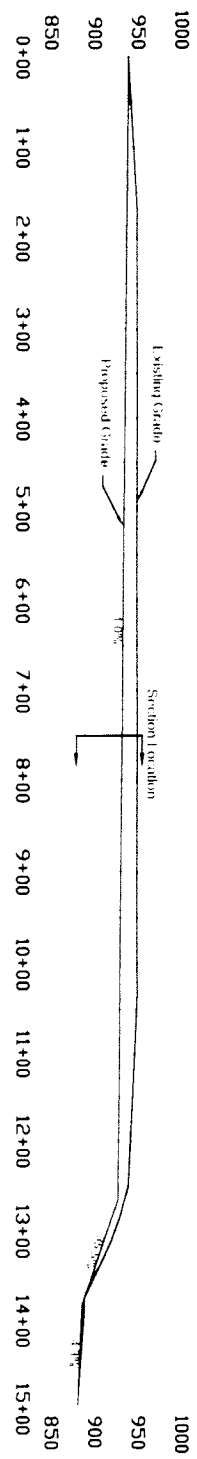
Project No. 2B DI TAIL SHEET

Revised: 11/11/2011

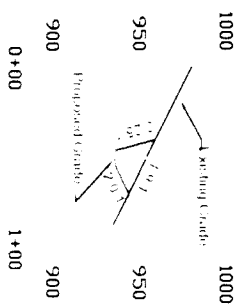


WILCOAT LLC  
SHELF STOCK  
2000 WILCOAT LANE  
SHELF, N.C. 27884  
TEL: 703-270-4171 FAX: 703-270-4171  
WWW.WILCOAT.COM





Stream Relocation Profile - Below VF2A EPZ  
Scale: 1" = 200'



Stream Relocation Section - Station 7+50  
Scale: 1" = 100'

Prepared By:



Marshall Miller and Associates  
Geology, Environmental Sciences & Engineering, Geophysics

- ☐ Bluefield, VA
- ☐ Lexington, KY
- ☐ Raleigh, NC
- ☐ Ashland, VA
- ☐ Charleston, WV
- ☐ Camp Hill, PA
- ☐ Kingsport, TN
- ☐ Lenexa, KS
- ☐ Boaster City, LA
- ☐ Cincinnati, OH
- ☒ Beckley, WV
- ☐ Evansville, IN

K84100\_1/08  
K84100\_Stream relocation.dwg



WILDCAT LLC  
500 First Street, Suite 200, Charleston, WV 25301  
Telephone: (304) 380 0200

Stream Relocation Details  
BELOW VALLEY FILL 2A EPZ  
Wildcat No. 2 Surface Mine  
Permit No. S-3016-06  
NPDES # WV1022156

Cabin Creek District  
Sylvester, Eschelle Quarries

Kennecott County  
West Virginia

CONTRACT NO. S.A.	SCALE	FILE NO.	SHEET NO.
PROJECT NO. S.A.	AS NOTED	K84100	1 OF 1
DRAWN BY: MU	DATE: 10/8		
CHECKED BY: MPE	APPROVED BY: JVA		

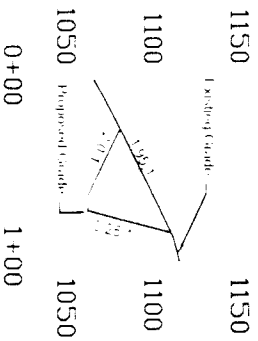
## Proposed (study)

101 400

0+00	1+00	2+00	3+00	4+00	5+00	6+00	7+00	8+00
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### Stream Relocation Profile - Below VF2B EPZ

Scale: 1" = 100'



## Stream Relocation Section - Station 2+50

Scale: 1" = 100'

Prepared By:



Marshall Miller and Associates

**Geology, Environmental Sciences & Engineering, Geophysics**

☐ Bluefield, VA · ☐ Lexington, KY · ☐ Raleigh, NC

☐ Ashland, VA    ☐ Charleston, WV    ☐ Camp Hill, PA

☐ Kingsport, TN    ☐ Lenexa, KS    ☐ Bozler City, LA

☐ Cincinnati, OH · ☒ Beckley, WV · ☐ Evansville, IN

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Cabin Creek District  
Sylvester, Eskdale Quadrangles

Kenneth County  
West Virginia

# THE UNIVERSITY OF CHICAGO

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DRAWN BY: M

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CHECKED BY: MPH

APPROVED BY: JAA

WILDCAT LLC

Telephone (304) 380-0200

## Stream Relocation Details

BELOW VALLEY FILL 2B EPZ

Wildcat No. 2 Surface Mine

Permit No. S-3016-06

NPDES # WV1022156